

COMMISSIONERS PROCEEDINGS  
JULY 20, 2004  
CLARK COUNTY, WASHINGTON

The Board convened in the Commissioners' Hearing Room, 6th Floor, Public Service Center, 1300 Franklin Street, Vancouver, Washington. Commissioners Stanton and Pridemore present. Commissioner Morris, Chair, absent.

PLEDGE OF ALLEGIANCE

The Commissioners conducted the Flag Salute.

BID AWARD 2378

Reconvened a public hearing for Bid Award 2378 – Clark County Road Atlas. Mike Westerman, General Services, stated that the Purchasing and GIS Departments were requesting a one-week extension for award because GIS was evaluating the computer related output from the low vendor. There being no public comment, **MOVED** by Pridemore to continue the award of Bid 2378 to July 27, 2004, at 10:00 a.m. in the Commissioners' Hearing Room in the Public Service Center, 6<sup>th</sup> Floor. Commissioners Morris and Pridemore voted aye. Motion carried. (See Tape 115)

PUBLIC COMMENT

Speaker #1

*Den Mark Wichar*, 711 West 25<sup>th</sup>, Vancouver, commented on the issue of captive elephants and asked that the board ban that from Clark County. He referenced the recent Carson and Barnes circus that took place in Vancouver. Mr. Wichar provided materials for the record.

Speaker #2

*Bridget Schwarz*, 2110 NW 179<sup>th</sup> Street, Ridgefield, Fairgrounds Neighborhood Association, expressed concerns regarding the Clark County Amphitheater operations.

CONSENT AGENDA

*Stanton* noted that there was a request to pull item 1 to be considered at a later date.

There being no public comment, **MOVED** by Pridemore to approve items 2 through 11, pulling item 1. Commissioners Stanton and Pridemore voted aye. Motion carried. (See Tape 115)

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PUBLIC HEARING: CASH DEFEASANCE

Held a public hearing to consider approval of a resolution authorizing the cash defeasance of the City of Battle Ground's 18% share of outstanding revenue bonds associated with Phase III expansion of the Salmon Creek Treatment Plant. This action further authorizes the transfer of such cash to an escrow account which will provide for the investment or reinvesting of such monies to accomplish the defeasance and authorizes the call for redemption of such bonds prior to the maturity of the callable bonds.

*John Payne*, Deputy Treasurer, presented. He explained that the City of Battle Ground was requesting that they do a cash defeasance of their proportion of the Phase IV expansion. He said they currently have 18% of the outstanding bonds that were issued in '95 and '96 to fund Phase III. He further explained.

*Stanton* asked what the benefit would be for the county.

*Payne* responded.

There being no public comment, **MOVED** by Pridemore to approve Resolution 2004-07-01. Commissioners Stanton and Pridemore voted aye. Motion carried. (See Tape 115)

PUBLIC HEARING: VETERANS RESOURCE CODE CHANGES

Held a public hearing to consider amendment to the Clark County code 2.29 – Veterans Relief. This code determines how the funding that is collected for the relief of indigent veterans is distributed and monitored. The proposed amendment includes easier access to the funding by indigent veterans.

*Peggy Sheehan*, Department of Community Services, Veterans Program staff member, presented. She explained that she has been working with the Veterans Resource Committee to redevelop and redesign the code in order to get more of the funding out to the veterans. She further explained.

*Stanton* asked if this came with a recommendation from the Veterans Resource Committee.

*Sheehan* replied that it does.

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*Phillip Coff*, County Service Officer for this fund, stated that he had just noticed in the paperwork that there is currently \$1.4 million in the fund; however, last year they had \$1.7 with a \$3,500 per month interest gain. He asked what had happened.

*Sheehan* said those were the number she had received from the accounting department, but that she follow up. She said perhaps there was some lag time in what they are reporting.

*Keith Fitch*, Marine Corp League, former member of the Veterans Resource Committee, stated that they have been working for a long time on getting the code changes, which are overdue. He said the changes look good and they are very appreciative.

*John Stovill*, 6204 Kansas Street, Vancouver, Retired Marine, stated that he has been involved with the Marine Corp League since 1992. He said he sees the code changes as an effort to move forward and take care of the veterans.

*Pridemore* referenced the first meeting they had regarding this issue and how they could go about making more services available to veterans in the community. He stated that the changes would greatly empower their ability to serve veterans and thanked the VRC and staff for their work.

**MOVED** by Pridemore to approve Ordinance 2004-07-12. Commissioners Stanton and Pridemore voted aye. Motion carried. (See Tape 115)

PUBLIC HEARING: PUBLIC USE & NECESSITY, NW 119/117

Held a public hearing to consider a request from Clark County Public Works Department to declare NW 119<sup>th</sup>/117<sup>th</sup> (NW 7<sup>th</sup> Avenue to NE Hazel Dell Avenue), a Public use and Necessity and to direct the Prosecuting Attorney's office to proceed onto Superior Court with Eminent Domain proceedings.

*Kevin Gray*, Department of Public Works, presented.

*Stanton* noted that this is something that the board never takes lightly.

*Pridemore* agreed. He stated that they have been involved with this project since the time he joined the board and said it's an extremely important link in the transportation network. He said he is in support of declaring it a public use & necessity.

*Stanton* asked if they had possession & use agreements for all three parcels or just the one.

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*Gray* responded that they did for only the Kemper parcel.

There being no public comment, **MOVED** by Pridemore to declare NW 119/117 Street, CRP 381022, a Public Use & Necessity and authorize the Prosecuting Attorney's Office to proceed with condemnation action. Commissioners Stanton and Pridemore voted aye. Motion carried. (See Tape 115)

PUBLIC MEETING: HUNTINGDON MANOR PLACE SUBDIVISION – PLD2003-00080; SEP2003-00154; WET2003-00051; HAB2003-00272; ARC2003-00099

Held a public meeting to consider an appeal of the Clark County Land Use Hearing Examiner's decision regarding the application for a preliminary plat approval to subdivide approximately 12.3 acres into 41 single-family residential lots using the density transfer standards, CCC 18.411.015 in the R1-10 zoning district.

PUBLIC MEETING: PARK AVENUE PLACE4 SUBDIVISION – PLD2003-00083; SEP2003-00155; MZR2003-00220; WET2003-00053; HAB2003-00274; ARC2003-00101

Held a public meeting to consider an appeal of the Clark County Land Use Hearing Examiner's decision regarding the application for a preliminary plat approval to subdivide approximately 9.08 acres into 47 single-family residential lots in the R-10 zoning district.

PUBLIC MEETING: PEACH SPRINGS SUBDIVISION – PLD2003-00082; SEP2003-000156; MZR2003-00220; WET2003-00052; HAB2003-00273; ARC2003-00100

Held a public meeting to consider an appeal of the Clark County Land Use Hearing Examiner's decision regarding the application for a preliminary plat approval to subdivide approximately 6.17 acres into 48 single-family residential lots in the R-18 zoning district.

The Board of Commissioners did not receive any public comment, oral or written, at this meeting.

*Stanton* indicated that although all three appeals had been brought to them separately, they were actually related. She opened the public meeting for all three appeals.

Commissioners Pridemore and Stanton certified reading the pertinent parts of the record (all three appeals).

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*Pridemore* asked Rich Lowry to clarify some of the issues particularly related to Burton. He said there had been a request from the applicant's representative to provide oral argument on this and he wanted to hear Mr. Lowry's thoughts on that. He said he also questioned the representative's comments about the hearing being a de novo hearing.

*Rich Lowry*, Prosecuting Attorney's Office, clarified that it's not a de novo hearing and explained. He said the first issue before you get to the constitutional issue is the statutory construction arguments. The most critical one is what constitutes a frontage road, the argument being that because we define public road as being a road maintained by the public, and since there is no maintained road either for 15<sup>th</sup> or the contested section of Williams-Smith Road, it's not frontage. He said if you agree with the applicant on that contention, then that disposes of this appeal; and if you disagree and get to the constitutional issues, in his judgment there's a difference between Williams-Smith Road and 15<sup>th</sup>. He said for Williams-Smith Road the record does indicate that Williams-Smith Road is not likely to be extended to the east and, therefore, there is a burden problem of requiring, however, and the hearings examiner recognized that, but indicated that he needed a road modification in order to fully deal with the issue. He said there was no road modification applied for because of the argument that this was not a frontage road. He said if you agree with the applicant, the applicant wins and if you disagree with the applicant, the applicant comes in with a road modification and wins. Lowry said that as to 15<sup>th</sup>, the nexus issue is entirely related to the fact that they would be constructing a road to nowhere here and the basis for the county's exaction is that 15<sup>th</sup> is on the 6-year road program and was found by the examiner to be necessary in the long term to serve these developments. He said the mitigation measures at Union Road and 79<sup>th</sup> were found by the examiner to be an adequate interim measure, but (tape turns over)...what's necessary in the longer term in order to provide access to these properties. He further explained. He said the construction presents a different issue for a couple of reasons: 1) it's been the practice of the county for some time where we have a capital facilities road that is a frontage road in which we're intending to come in with a county road project to not require frontage improvements by the applicant. He said Public Works would prefer to incorporate those improvements in the larger county road project. Lowry said that 15<sup>th</sup> is on the 6-year road program; however, it's not currently funded and that's an issue that is a bit troublesome.

*Pridemore* said he came to the same conclusion regarding William-Smith Road and then on 15<sup>th</sup> it seemed to him there was ample evidence that 15<sup>th</sup> would indeed be connected. He said he has advocated very strongly for it. He said if it's on the 6-year road plan, but it's not funded then where do they draw the line? What's the test?

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*Lowry* said the Burton case says that there has to be evidence in the record of a reasonable likelihood that the connection will be made in the reasonably foreseeable future. He said the fact that it's on the 6-year road plan to be constructed by 2008 meets that test.

*Pridemore* said that was the conclusion he had come to.

*Stanton* said this was one of those matters in which there is a question of interpretation of their code. She said in her reading of the General Requirement, the key words are – and we're talking about a partial road – shall be established and constructed. She said that to her "shall be established" means that there isn't one there. So in her reading of that section of code, it's not true that you have to have a substandard road and that we're then requiring you to bring up to the current transportation standards, but instead we're saying clearly that if there isn't already a road there that meets the transportation standards, you need to establish and construct one. She said she believe that's the way they have always interpreted that code and taking a piece of it out of context and trying to go through the exercise of defining road and roadway – even that part has some difficulty with because it's taken out of context. *Stanton* said she felt this was too narrow a reading. She said that what's being discussed here is the way the piece of the code ought to be interpreted and she disagrees entirely, which puts her on the side of the hearings examiner's interpretation of the code.

*Pridemore* stated that the hearings examiner argued exactly as Commissioner *Stanton* had laid it out, and he agreed. He said that section taken in whole is much clearer than the bit of it that was used in the appeal. He said there had been a lot of discussions about alternatives to those facilities, corrections to Union Road, etc.

*Stanton* said that one of the things that they have to find before they approve a subdivision is that there is an adequate road system in place. In this case the adequate road system includes 15<sup>th</sup> for circulation and for safety at Union Road and 179<sup>th</sup>. She said they have been clear all along that they intend to close Union Road and move that intersection further away from the interchange at I-5 and 179<sup>th</sup> – it's related.

*Pridemore* said the hearings examiner, in his final rulings on this, stated that if they were to accept the proposal as laid out by CTS that perhaps his ruling would have been different. So it felt like a clarification on their intentions related to Union Road.

*Lowry* said the applicant acknowledged that they're at some risk in terms of whether or not these mitigation measures would be approved, but indicated that they were willing to take that risk.

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*Pridemore* said that to him Union Road is a clear safety issue and that there was ample evidence in the record to support the conclusion that there are safety concerns there that may or may not be adequately mitigation.

*Stanton* said the overall policy issue of whether or not a frontage is required under the transportation standards, they are in agreement on. She referenced Huntingdon and said the question was should the frontage and partial road have to be built further than the entrance to the subdivision knowing that they have critical lands beyond that and the road is unlikely to be extended in the future. From her reading of the record, she agrees that if they know that road is not going to be extended, then there's no need to continue with frontage improvements. She further explained.

*Lowry* said the procedurally correct way to go would be to affirm the hearings examiner because they don't have a road modification request; however, on the other hand from the record it would appear that going through the road modification would simply be a paper exercise. He said on the basis of this record the board could determine that they are going to decide the issue without a road modification and that William-Smith Road does not have to be extended any further than necessary to provide access to these developments.

*Pridemore* said his gut instinct is that it isn't going to go anywhere, but...

*Lowry* indicated that he had discussions with Public Works/Engineering and they agree that in all likelihood a road modification request would be granted. *Lowry* said he didn't think the hearings examiner had erred at all and that the record was more than adequate to come to the conclusion that a road modification should be granted.

*Pridemore* asked if the board had authority to grant the road modification or would it go to the County Engineer.

*Lowry* said the board had authority to direct the County Engineer to issue a road modification based upon the fact that the road isn't going to proceed east.

*Stanton* agreed that the hearings examiner didn't error. She then referenced the Peach Springs and Park Avenue matters and the issue on 15<sup>th</sup>. Again, that was interpretation of the code.

*Lowry* said his major concern about requiring the developer to actually construct that section that goes nowhere is that gives the impression that the county is intending to get 15<sup>th</sup> built by developments and that makes it much more problematic that 15<sup>th</sup> won't get accomplished in the reasonably foreseeable future.

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*Stanton* referred to the whole argument about there not being a stub road adjoining this...

*Lowry* said the applicant's argument that they meet that section by preserving the corridor is probably correct.

*Stanton* referred to the part about whether 15<sup>th</sup> Avenue exists either north of south, the statement in the appellant's most recent letter to the board.

*Lowry* said he didn't really think the street extension section is applicable to the case. It's really a section that's intended to deal with more localized streets and to get cross-circulation as multiple developments occur.

*Stanton* referenced the wording in the appeal letter for Peach Springs and Park Avenue where one of the arguments is that the right-of-way for 15<sup>th</sup> Avenue cannot be required because presently there is no road that has been constructed, created, or stubbed at the property line. She said she doesn't agree with that argument because the fact that the county has acquired right-of-way south of that road and the fact that it's on the road atlas, says that it's been created.

*Pridemore* said he was trying to visualize what we would have when those are completed. He said for the areas where you have frontage improvements, you're going to have a road.

*Lowry* responded.

Discussion continued.

*Pridemore* said in the past it seemed that their practice has been to require frontage...

*Lowry* said the recent practice has been where the frontage improvements would be the same as would be constructed by the county under a CFP project, which is scheduled to be completed, the practice by Public Works has been to not require frontage improvements and thereby not grant impact fee credits, but for the county to simply construct...

*Pridemore* asked if the developer in that area would contribute via the impact fees toward construction of 15<sup>th</sup> and would dedicate right-of-way – that would be their share of the facility?

*Lowry* said that was correct and they would get impact fee credits for the dedicated right-of-way.



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*Stanton* said this really brought home the need for Urban Holding on their considerations for adding any urban land to current boundaries. It also brought home the need to look at an area as a whole when they consider taking Urban Holding off because if they try to do it subdivision by subdivision it's not going to work.

*Pridemore* agreed and noted that he has noticed a lot of the subdivisions built in the past that don't have the cross-circulation and planning level of detail that they need. He said he is increasingly questioning whether they can continue, even in the slowed down pattern that they have, without starting to do some more sub area planning.

Lowry suggested they could do one resolution that would cover all three appeals. He said the first thing they should do is indicate that both William-Smith Road and 15<sup>th</sup> constitutes frontage roads for purposes of the county code; 2) they need to indicate for William-Smith road whether or not they are going to direct issuance of a road modification; 3) as to 15<sup>th</sup>, they need to deal with both the right-of-way dedication and construction.

**MOVED** by Pridemore to modify the hearings examiner's decision in regards to Huntingdon Manner Place, Park Avenue Place, and Peach Springs Subdivisions as follows: 1) the Board of County Commissioners consider William-Smith Road and 15<sup>th</sup> Avenue frontage roads requiring construction; 2) that staff be directed to prepare road modification for William-Smith Road indicating that it will not be completed beyond where it's necessary to provide access; and 3) that the applicant will be required to provide right-of-way for NE 15<sup>th</sup> Avenue, but not construction apart from impact fees and other required contributions. Commissioners Stanton and Pridemore voted aye. Motion carried. (See Tape 115)

*The board adjourned and reconvened as the Board of Health.*

PUBLIC COMMENT

There was no public comment.

CONSENT AGENDA

There being no public comment, **MOVED** by Pridemore to approve consent agenda item 1. Board Members Stanton and Pridemore voted aye. Motion carried. (See tape 115)

*Adjourned*

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BOARD OF COUNTY COMMISSIONERS

Betty Sue Morris/s/  
Betty Sue Morris, Chair

Judie Stanton, Commissioner

Craig A. Pridemore/s/  
Craig A. Pridemore, Commissioner

ATTEST:

Louise Richards/s/  
Clerk of the Board

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